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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

MMB Docket No. 1781-0010

Urquhart Reference: **SJB/P011888US**

Application of: **Revie et al.**

Group Art Unit: **3739**

Serial No. **10/505,304**

Examiner: **Matthew John Kasztejna**

Filed: **July 11, 2005**

For: **Surgical Instrument System**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 14, 2007

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APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

This is an appeal to the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office from the rejection of the claims 2-8,

12-16, and 19-24 of the above-identified patent application. These claims have been finally rejected in an Office Action dated December 14, 2006. The \$500.00 government fee required for the filing of this Appeal Brief is submitted herewith. Also, please provide any extensions of time that may be necessary and charge any fees that may be due to Deposit Account No. 13-0014, but not to include any payment of issue fees.

(1) REAL PARTY IN INTEREST

DePuy International Limited of Leeds, United Kingdom is the assignee of this patent application, and the real party in interest.

(2) RELATED APPEALS AND INTERFERENCES

None.

(3) STATUS OF CLAIMS

Claims 1, 9, 10, 11, 17, and 18 are canceled.

Claims 2-8, 12-16, and 19-24 are pending in the application.

Claims 2-8, 12-16, and 19-24 are finally rejected.

Claims 2-8, 12-16, and 19-24 are being appealed.

Claims 2-8, 12-16, and 19-24 are shown in the Claim Appendix attached to this Appeal Brief.

(4) STATUS OF AMENDMENTS

Appellants have filed no amendments subsequent to the final rejection contained in the Office Action mailed December 14, 2006.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

Claim 5 is summarized as follows:

A first aspect of Appellants' invention relates to a surgical instrument system that includes a drill bit 2 including an elongate shaft which defines a drill bit axis, the shaft bearing a plurality of marker rings 10, 11, 12 arranged in a predetermined pattern on the surface of the shaft. (See, e.g., Appellants' Figs. 1 and 2; and specification at page 8, lines 1-9; and page 1, line 22 through page 2, line 8.) The system further includes at least two receiving devices 14 which are spaced apart for receiving stereoscopic signals from the rings 10, 11, 12 on the drill bit 2. (See, e.g. Appellants' Fig. 1; specification at page 8, lines 13-17; and page 6, lines 5-11.) In addition, the system includes a data processor 16 for analysing the signal from the rings 10, 11, 12 and generating information relating to the position and orientation of the drill bit 2 relative to the receiving device. (See, e.g. Appellants' Fig. 1; specification at page 8, line 18 through page 9, line 10; and page 4, lines 9-12.) The system also includes a drive unit 8 operable to rotate the drill bit 2 about the drill bit axis. (See, e.g., Appellants' Fig. 1; and specification at page 8, lines 6-7.)

Claims Dependent on Claim 5 are summarized as follows:

The marker rings 10, 11, 12 are more reflective than the surface of the shaft on which they are arranged. (See, e.g., Appellants' specification at page 5, lines 8-9.) Also, there are at least three marker rings 10, 11, 12. (See, e.g.,

Appellants' specification at page 4, line 9.) The distance between a first ring 10 and a second ring 11 which is adjacent to the first ring 10 is the same as the distance between the said second ring 11 and a third ring 12 which is adjacent to the second ring 11 on the opposite side of the second ring 11 from the first ring 10. (See, e.g., Appellants' Fig. 2; and specification at page 4, lines 10-12.) The planes defined by the axially spaced edges of each ring 10, 11, 12 are parallel to one another and perpendicular to the drill bit axis. (See, e.g., Appellants' Fig. 2; and specification at page 2, lines 25-26.) The rings 10, 11, 12 are marked on a sleeve which is fitted to the surface of the drill bit 2. (See, e.g., Appellants' specification at page 6, lines 18-20.)

Claim 8 is summarized as follows:

Another aspect of Appellants' invention relates to a surgical instrument system that includes a reamer including an elongate shaft which defines an axis, the shaft bearing a plurality of marker rings 10, 11, 12 arranged in a predetermined pattern on the surface of the shaft. (See, e.g., Appellants' Figs. 1 and 2; specification at page 7, line 4; and page 1, line 22 through page 2, line 8.) The system further includes at least two receiving devices 14 which are spaced apart for receiving stereoscopic signals from the rings 10, 11, 12 on the reamer. (See, e.g., Appellants' Fig. 1; specification at page 8, lines 13-17; page 7, line 4; page 6, lines 5-11; and page 1, line 22 through page 2, line 8.) Also, the system includes a data processor 16 for analysing the signal from the rings 10, 11, 12 and generating information relating to the position and orientation of the reamer

relative to the receiving device. (See, e.g. Appellants' Fig. 1; page 1, line 22 through page 2, line 8; page 7, lines 6-7; and page 7, line 4.) In addition, the system includes a drive unit 8 operable to rotate the reamer about the axis. (See, e.g., Appellants' Fig. 1; specification at page 8, lines 6-7; and page 1, line 22 through page 2, line 8.) The reamer is configured to cut a patient's tissue during rotation of the reamer about the axis. (See, e.g., Appellants' Fig. 1; specification at page 7, lines 6-7; page 1, line 22 through page 2, line 8; page 7, line 4; and page 1, lines 8-10.)

Claims Dependent on Claim 8 are summarized as follows:

The marker rings 10, 11, 12 are more reflective than the surface of the shaft on which they are arranged. (See, e.g., Appellants' specification at page 5, lines 8-9.) Also, there are at least three marker rings 10, 11, 12. (See, e.g., Appellants' specification at page 4, line 9.) The distance between a first ring 10 and a second ring 11 which is adjacent to the first ring 10 is the same as the distance between the said second ring 11 and a third ring 12 which is adjacent to the second ring 11 on the opposite side of the second ring 11 from the first ring 10. (See, e.g., Appellants' Fig. 2; and specification at page 4, lines 10-12.) The planes defined by the axially spaced edges of each ring 10, 11, 12 are parallel to one another and perpendicular to the drill bit axis. (See, e.g., Appellants' Fig. 2; and specification at page 2, lines 25-26.) The rings 10, 11, 12 are marked on a sleeve which is fitted to the surface of the drill bit 2. (See, e.g., Appellants' specification at page 6, lines 18-20.)

Claim 19 is summarized as follows:

Still another aspect of Appellants' invention relates to a surgical instrument system that includes a tool 2 including an elongate shaft which defines a tool axis, the shaft bearing a plurality of marker rings 10, 11, 12 arranged in a predetermined pattern on the surface of the shaft so that they extend around the tool axis. (See, e.g., Appellants' Figs. 1 and 2; specification at page 7, line 4; specification at page 8, lines 1-9; and page 1, line 22 through page 2, line 8.) The system further includes at least two receiving devices 14 which are spaced apart for receiving stereoscopic signals from the rings 10, 11, 12 on the tool 2. (See, e.g. Appellants' Fig. 1; specification at page 8, lines 13-17; page 6, lines 5-11; and page 1, line 22 through page 2, line 8.) In addition, the system includes a data processor 16 for analysing the signal from the rings 10, 11, 12 and generating information relating to the position and orientation of the tool 2 relative to the receiving device. (See, e.g. Appellants' Fig. 1; specification at page 8, line 18 through page 9, line 10; page 1, line 22 through page 2, line 8; and page 4, lines 9-12) The system also includes a drive unit 8 for imparting rotational motion to the tool 2 and the tool 2 is one of a drill bit and a reamer, and each of the drill bit and the reamer is configured to cut a patient's tissue when it is made to rotate as a result of the rotational motion imparted to it by the drive unit 8. (See, e.g., Appellants' Fig. 1; and specification at page 8, lines 6-7; and page 1, line 22 through page 2, line 8; page 7, lines 4-7; and page 1, lines 8-10.)

Claims Dependent on Claim 19 are summarized as follows:

The marker rings 10, 11, 12 are more reflective than the surface of the shaft on which they are arranged. (See, e.g., Appellants' specification at page 5, lines 8-9.) Also, there are at least three marker rings 10, 11, 12. (See, e.g., Appellants' specification at page 4, line 9.) The distance between a first ring 10 and a second ring 11 which is adjacent to the first ring 10 is the same as the distance between the said second ring 11 and a third ring 12 which is adjacent to the second ring 11 on the opposite side of the second ring 11 from the first ring 10. (See, e.g., Appellants' Fig. 2; and specification at page 4, lines 10-12.) The planes defined by the axially spaced edges of each ring 10, 11, 12 are parallel to one another and perpendicular to the tool axis. (See, e.g., Appellants' Fig. 2; and specification at page 2, lines 25-26.) The rings 10, 11, 12 are marked on a sleeve which is fitted to the surface of the tool 2. (See, e.g., Appellants' specification at page 6, lines 18-20.)

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 2, 3, 5, 8, 12, 13, 19, 20, and 21 stand rejected under 35 U.S.C. § 102 as being anticipated by Kienzle, III et al. (U.S. Patent No. 6,478,802).

Claims 4, 6, 14, 15, 22, and 23 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kienzle, III et al. (U.S. Patent No. 6,478,802) in view of Gillies et al. (U.S. Patent No. 6,272,370).

Claims 7, 16, and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kienzle, III et al. (U.S. Patent No. 6,478,802) in view of Ben-Haim et al. (U.S. Patent No. 6,203,493).

(7) ARGUMENT

I. Rejection under 35 U.S.C. § 102 by Kienzle, III et al. (U.S. Patent No. 6,478,802)

Claims 2, 3, 5, 8, 12, 13, 19, 20, and 21 are not anticipated under 35 U.S.C. § 102 by Kienzle, III et al. (U.S. Patent No. 6,478,802)

Claims 2, 3, 5, 8, 12, 13, 19, 20, and 21 were rejected as being unpatentable under 35 U.S.C. § 102 as being anticipated by Kienzle, III et al. (U.S. Patent No. 6,478,802). Appellants respectfully request reconsideration of this rejection by the Board of Appeals.

Discussion re: Patentability of Claim 5

Claim 5

Claim 5 recites, among other limitations, the following:

a drill bit including an elongate shaft which defines a drill bit axis, the shaft bearing a plurality of marker rings arranged in a predetermined pattern on the surface of the shaft.

As stated above, claim 5 was rejected under 35 U.S.C. § 102 as being anticipated by Kienzle. It is axiomatic that anticipation of a claim under 35 U.S.C. § 102 is proper only if the prior art reference discloses each and every element of the claim.

In an attempt to identify where Kienzle discloses the above limitations of claim 5, the following was stated in the December 14, 2006 Office Action at page 2, lines 20-23:

... , Kienzle, III et al. disclose[s] ... a drill bit 105 including an elongated shaft which defines a drill bit axis, the shaft bearing a plurality of markers rings arranged in a predetermined pattern,

However, Kienzle's drill bit 105 does not possess a plurality of markers on its shaft, much less, marker rings arranged in a predetermined pattern on the surface of the drill bit shaft as required by Appellants' claim 5. A simple review of Figs. 1 and 2 of Kienzle exposes this fact. Indeed, the entire the drill bit 105 including its shaft is free of markers. Rather, Kienzle places its markers (i.e. localizing emitters 101) on its power drill housing 115 (Fig. 2; column 4, lines 14-15), or on its fin assembly 102 that is attached to the housing 115 (Fig. 1, column 4, lines 8-10), or on its fin assembly 112 that is attached to a drill guide 110 (Fig. 1, column 3, lines 43-45).

Kienzle's system suffers from the exact problems which Appellants' invention of claim 5 is directed at, and indeed, overcomes. Firstly, in the last several lines of Kienzle's column 4, it is acknowledged that calibration of the system is necessary on a drill bit that has been installed into a chuck. A calibration means (see, e.g., the dimple 113 on the drill guide 110 of Fig. 1) is required to calculate the precise location of the drill bit in relation the marker emitters 101. This is avoided in Appellants' invention of claim 5 by virtue of the marker rings being provided directly on the drill bit itself rather than on a power drill housing or on ancillary parts such as a drill guide structure. In Appellants' claimed arrangement, the precise location of the markers relative to the drill bit is essentially always known since the physical relationship between the markers and the drill bit remains fixed.

Secondly, Kienzle acknowledges another problem with its system. Particularly, a drill bit may flex during a drilling procedure (see, e.g., Kienzle at column 5, lines 57-60) thereby causing the calculated trajectory of the drill bit to be inconsistent with the actual trajectory of the drill bit. This problem is also avoided to a large degree by Appellants' invention of claim 5 as a result of providing the marker rings directly on the drill bit itself rather than on other parts of the power drill system. Indeed, inaccuracies due to flexion of the drill bit is significantly reduced when the marker rings are close to the cutting surfaces of the drill bit in comparison to when the marker rings are very remote from the drill bit cutting surfaces.

In summary, Kienzle simply lacks a plurality of marker rings arranged in a predetermined pattern on the surface of the drill bit shaft as required by Appellants' claim 5. Since Kienzle does not disclose each and every element of Appellants' claim 5, Kienzle does not anticipate claim 5.

Discussion Re: Patentability of Claims 2 and 3

Each of claims 2 and 3 depends directly from claim 5. As a result, each of claims 2 and 3 is allowable over Kienzle for, at least, the reasons hereinbefore discussed with regard to claim 5.

Discussion re: Patentability of Claim 8

Claim 8

Claim 8 recites, among other limitations, the following:

a reamer including an elongate shaft which defines an axis, the shaft bearing a plurality of marker rings arranged in a predetermined pattern on the surface of the shaft.

Similar to claim 5, claim 8 was rejected under 35 U.S.C. § 102 as being anticipated by Kienzle. It is axiomatic that anticipation of a claim under 35 U.S.C. § 102 is proper only if the prior art reference discloses each and every element of the claim.

Presumably, in an attempt to identify where Kienzle discloses the above limitations of claim 8, the following was stated in the December 14, 2006 Office Action at page 2, lines 20-23:

... , Kienzle, III et al. disclose[s] ... a drill bit 105 including an elongated shaft which defines a drill bit axis, the shaft bearing a plurality of markers rings arranged in a predetermined pattern,

However, Kienzle's drill bit 105 is not a reamer having a plurality of markers on its shaft, much less, marker rings arranged in a predetermined pattern on the surface of the reamer shaft as required by Appellants' claim 8. The only possible component of Kienzle that could arguably be equated with a reamer is the drill bit 105. However, the entire the drill bit 105 including its shaft is free of markers. Rather, Kienzle places its markers (i.e. localizing emitters 101) on its power drill housing 115, or on its fin assembly 102 that is attached to the housing 115, or on its fin assembly 112 that is attached to a drill guide 110.

Kienzle fails to teach a plurality of marker rings arranged in a predetermined pattern on the surface of a reamer shaft as required by Appellants' claim 8. Since Kienzle does not disclose each and every element of Appellants' claim 8, Kienzle does not anticipate claim 8.

Discussion Re: Patentability of Claims 12 and 13

Each of claims 12 and 13 depends directly from claim 8. As a result, each of claims 12 and 13 is allowable over Kienzle for, at least, the reasons hereinbefore discussed with regard to claim 8.

Discussion re: Patentability of Claim 19

Claim 19

Claim 19 recites, among other limitations, the following:

a tool including an elongate shaft which defines a tool axis, the shaft bearing a plurality of marker rings arranged in a predetermined pattern on the surface of the shaft so that they extend around the tool axis, ...

wherein the tool is one of a drill bit and a reamer.

Similar to claims 5 and 8, claim 19 was rejected under 35 U.S.C. § 102 as being anticipated by Kienzle. It is axiomatic that anticipation of a claim under 35 U.S.C. § 102 is proper only if the prior art reference discloses each and every element of the claim.

Presumably, in an attempt to identify where Kienzle discloses the above limitations of claim 19, the following was stated in the December 14, 2006 Office Action at page 2, lines 20-23:

... , Kienzle, III et al. disclose[s] ... a drill bit 105 including an elongated shaft which defines a drill bit axis, the shaft bearing a plurality of markers rings arranged in a predetermined pattern,

However, Kienzle's drill bit 105 is not a drill bit or a reamer having a plurality of markers on its shaft, much less, marker rings arranged in a predetermined pattern on the surface of the shaft as required by Appellants' claim 19. The only possible component of Kienzle that could arguably be equated with a drill bit or a reamer is the drill bit 105. However, the entire the drill bit 105 including its shaft is free of markers. Rather, Kienzle places its markers (i.e. localizing emitters 101) on its power drill housing 115, or on its fin assembly 102 that is attached to the housing 115, or on its fin assembly 112 that is attached to a drill guide 110.

Kienzle fails to teach a plurality of marker rings arranged in a predetermined pattern on the surface of a drill bit shaft or a reamer shaft as required by Appellants' claim 19. Since Kienzle does not disclose each and every element of Appellants' claim 19, Kienzle does not anticipate claim 19.

Discussion Re: Patentability of Claims 20 and 21

Each of claims 20 and 21 depends directly from claim 19. As a result, each of claims 20 and 21 is allowable over Kienzle for, at least, the reasons hereinbefore discussed with regard to claim 19.

II. Rejection under 35 U.S.C. § 103 over Kienzle, III et al. (U.S. Patent No. 6,478,802) in view of Gillies et al. (U.S. Patent No. 6,272,370)

Claims 4, 6, 14, 15, 22, and 23 are not unpatentable under 35 U.S.C. § 103 over Kienzle, III et al. (U.S. Patent No. 6,478,802) in view of Gillies et al. (U.S. Patent No. 6,272,370)

Claims 4, 6, 14, 15, 22, and 23 were rejected as being unpatentable under 35 U.S.C. § 103 over Kienzle, III et al. (U.S. Patent No. 6,478,802) in view of Gillies et al. (U.S. Patent No. 6,272,370). Appellants respectfully request reconsideration of this rejection by the Board of Appeals.

Discussion re: Patentability of Claims 4 and 6

Claims 4 and 6 incorporate the limitations of claim 5 by way of their dependencies. As a result, claims 4 and 6 are allowable over Kienzle for, at least, the reasons hereinbefore discussed with regard to claim 5.

Discussion re: Patentability of Claims 14 and 15

Claims 14 and 15 incorporate the limitations of claim 8 by way of their dependencies. As a result, claims 14 and 15 are allowable over Kienzle for, at least, the reasons hereinbefore discussed with regard to claim 8.

Discussion re: Patentability of Claims 22 and 23

Claims 22 and 23 incorporate the limitations of claim 19 by way of their dependencies. As a result, claims 22 and 23 are allowable over Kienzle for, at least, the reasons hereinbefore discussed with regard to claim 19.

III. Rejection under 35 U.S.C. § 103 over Kienzle, III et al. (U.S. Patent No. 6,478,802) in view of Ben-Haim (U.S. Patent No. 6,203,493)

Claims 7, 16, and 24 are not unpatentable under 35 U.S.C. § 103 over Kienzle, III et al. (U.S. Patent No. 6,478, 493) in view of Ben-Haim (U.S. Patent No. 6,203, 493)

Claims 7, 16, and 24 were rejected as being unpatentable under 35 U.S.C. § 103 over Kienzle, III et al. (U.S. Patent No. 6,478,802) in view of Ben-Haim (U.S. Patent No. 6,203,802). Appellants respectfully request reconsideration of this rejection by the Board of Appeals.

Discussion re: Patentability of Claim 7

Claim 7 depends directly from claim 5. As a result, claim 7 is allowable over Kienzle for, at least, the reasons hereinbefore discussed with regard to claim 5.

Discussion re: Patentability of Claim 16

Claim 16 depends directly from claim 8. As a result, claim 16 is allowable over Kienzle for, at least, the reasons hereinbefore discussed with regard to claim 8.

Discussion re: Patentability of Claim 24

Claim 24 depends directly from claim 19. As a result, claim 24 is allowable over Kienzle for, at least, the reasons hereinbefore discussed with regard to claim 19.

III. Conclusion

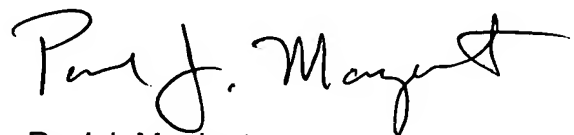
Claims 2, 3, 5, 8, 12, 13, 19, 20, and 21 are not anticipated under 35 U.S.C. § 102 by Kienzle, III et al. (U.S. Patent No. 6,478,802), and the Board of Appeals is respectfully requested to reverse the rejection of these claims.

Claims 4, 6, 14, 15, 22, and 23 are not unpatentable under 35 U.S.C. § 103 as being unpatentable over Kienzle, III et al. (U.S. Patent No. 6,478,802) in view of Gillies et al. (U.S. Patent No. 6,272,370), and the Board of Appeals is respectfully requested to reverse the rejection of these claims.

Claims 7, 16, and 24 are not unpatentable under 35 U.S.C. § 103 as being unpatentable over Kienzle, III et al. (U.S. Patent No. 6,478,802) in view of Ben-Haim et al. (U.S. Patent No. 6,203,493), and the Board of Appeals is respectfully requested to reverse the rejection of these claims.

Respectfully submitted,

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(8) CLAIM APPENDIX

2. A system as claimed in claim 5, in which the marker rings are more reflective than the surface of the shaft on which they are arranged.

3. A system as claimed in claim 5, in which there are at least three marker rings.

4. A system as claimed in claim 3, in which the distance between a first ring and a second ring which is adjacent to the first ring is the same as the distance between the said second ring and a third ring which is adjacent to the second ring on the opposite side of the second ring from the first ring.

5. A surgical instrument system, which comprises:

a. a drill bit including an elongate shaft which defines a drill bit axis, the shaft bearing a plurality of marker rings arranged in a predetermined pattern on the surface of the shaft,

b. at least two receiving devices which are spaced apart for receiving stereoscopic signals from the rings on the drill bit,

c. a data processor for analysing the signal from the rings and generating information relating to the position and orientation of the drill bit relative to the receiving device, and

d. a drive unit operable to rotate the drill bit about the drill bit axis.

6. A system as claimed in claim 5, in which the planes defined by the axially spaced edges of each ring are parallel to one another and perpendicular to the drill bit axis.

7. A system as claimed in claim 5, in which the rings are marked on a sleeve which is fitted to the surface of the drill bit.

8. A surgical instrument system, which comprises:

a. a reamer including an elongate shaft which defines an axis, the shaft bearing a plurality of marker rings arranged in a predetermined pattern on the surface of the shaft,

b. at least two receiving devices which are spaced apart for receiving stereoscopic signals from the rings on the reamer, and

c. a data processor for analysing the signal from the rings and generating information relating to the position and orientation of the reamer relative to the receiving device, and

a drive unit operable to rotate the reamer about the axis,

wherein the reamer is configured to cut a patient's tissue during rotation of the reamer about the axis.

12. A system as claimed in claim 8, in which the marker rings are more reflective than the surface of the shaft on which they are arranged.

13. A system as claimed in claim 8, in which there are at least three marker rings.

14. A system as claimed in claim 13, in which the distance between a first ring and a second ring which is adjacent to the first ring is the same as the distance between the said second ring and a third ring which is adjacent to the second ring on the opposite side of the second ring from the first ring.

15. A system as claimed in claim 8, in which the planes defined by the axially spaced edges of each ring are parallel to one another and perpendicular to the axis.

16. A system as claimed in claim 8, in which the rings are marked on a sleeve which is fitted to the surface of the reamer.

19. A surgical instrument system, which comprises:

a tool including an elongate shaft which defines a tool axis, the shaft bearing a plurality of marker rings arranged in a predetermined pattern on the surface of the shaft so that they extend around the tool axis,

at least two receiving devices which are spaced apart for receiving stereoscopic signals from the rings on the tool,

a data processor for analysing the signal from the rings and generating information relating to the position and orientation of the tool relative to the receiving device, and

a drive unit for imparting rotational motion to the tool,

wherein the tool is one of a drill bit and a reamer, and

wherein each of the drill bit and the reamer is configured to cut a patient's tissue when it is made to rotate as a result of the rotational motion imparted to it by the drive unit.

20. A system as claimed in claim 19, in which the marker rings are more reflective than the surface of the shaft on which they are arranged.

21. A system as claimed in claim 19, in which there are at least three marker rings.

22. A system as claimed in claim 21, in which the distance between a first ring and a second ring which is adjacent to the first ring is the same as the distance between the said second ring and a third ring which is adjacent to the second ring on the opposite side of the second ring from the first ring.

23. A system as claimed in claim 19, in which the planes defined by the axially spaced edges of each ring are parallel to one another and perpendicular to the tool axis.

24. A system as claimed in claim 19, in which the rings are marked on a sleeve which is fitted to the surface of the tool.

(9) EVIDENCE APPENDIX

None.

(10) RELATED PROCEEDINGS APPENDIX

None.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

MMB Docket No. 1781-0010

Urquhart Reference: SJB/P11888US

Application of: **Revie et al.**

Serial No. 10/505,304

Filed: **July 11, 2005**

Title: **Surgical Instrument System**

Group Art Unit: **3739**

Examiner: **M. J. Kasztejna**

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P.O. Box 1450, Alexandria, VA 22313-1450 on
May 14, 2007
(Date of Deposit)

Paul J. Maginot
Name of person mailing Document or Fee

Paul J. Maginot
Signature

May 14, 2007
Date of Signature

LETTER

Sir:

Enclosed is an Appeal Brief in connection with the above-identified patent application. The Notice of Appeal was filed on March 13, 2007, and the Appeal Brief was due two months from this date. Since the due date for filing the Appeal Brief fell on Sunday, May 13, 2007, the Appeal Brief is being timely filed on Monday, May 14, 2007. Also enclosed herewith is a check for \$500.00 to cover the fee required under 37 CFR 41.20(b)(2).

Additionally, please provide any extensions of time which may be necessary and charge any fees which may be due to Account No. 13-0014, but not to include any payment of issue fees.

Respectfully submitted,

MAGINOT, MOORE & BECK LLP

A handwritten signature in black ink, reading "Paul J. Maginot". The signature is written in a cursive style with a large, stylized "P" and "M".

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